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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF ARIZONA

10 United States of America,
11 Plaintiff,

12 vs.

13 Lonnie Ray Swartz,
14 Defendant.
15

CR 15-01723-TUC-RCC (DTF)

NOTICE
RE GOVERNMENT'S MOTION
FOR LEAVE TO CALL REBUTTAL
WITNESS RE DAUBERT HEARING

(Objection)

16 The United States of America, by and through its undersigned attorneys, hereby
17 gives notice that its rebuttal witness, Special Agent in Charge Chad M. Steel, Department
18 of Homeland Security Office of Inspector General, will be available to present rebuttal
19 testimony on Friday, June 30, 2017, at 1:00 p.m., and in support states as follows:

20 1. As outlined in the government's motion for leave to call a rebuttal forensic
21 video examiner witness, doc. 192, the government seeks to call the witness to explain the
22 accuracy of the compression algorithm used to process the videos in this case, and rebut
23 the defendant's expert's claim that the data on the videos is false, falsified or erroneous.

24 2. Defense objects to the motion for leave, and this morning advised
25 undersigned counsel that they are unavailable to have a continued hearing on this matter
26 until the end of July 2017. The government is concerned that if the hearing is continued
27 until the end of July, a motion to continue trial may follow. The government is ready to
28

1 try this case in October, and does not want anything to stand in the way of expeditious
2 resolution of pending motions.

3 3. The government understands that this Court has set aside the entire day on
4 June 30, 2017, to address matters in this case. Accordingly, upon receiving notice of the
5 potential scheduling conflict for most of the month of July, undersigned counsel
6 immediately contacted the expert witness, who is based in Washington D.C., and he booked
7 a flight for the early morning of June 30, 2017 (tomorrow). He is scheduled to arrive at
8 the Tucson International Airport by 10:00 a.m. June 30, 2017. In an abundance of caution
9 due to possible flight or traffic delays, the government can have him at the courthouse by
10 1:00 p.m. to testify.

11 4. SAC Steel is the rebuttal witness the government obtained after hearing the
12 testimony of defense expert Grant Fredericks on June 22, 2017. In the midst of Mr.
13 Fredericks' testimony, after the lunch break, the government made a record of the lack of
14 notice they received regarding Mr. Fredericks' exhibits, and some of his opinions, and that
15 the government reserved the right to call an expert in rebuttal. The government also
16 reserved the right at the end of the hearing to call additional witnesses.

17 5. The government has provided defense with a copy of SAC Steel's resume,
18 and a letter disclosing what he relied on, and his opinions. Exhibit A, attached.

19 6. Defense counsel has been informed of this notice and leave to call the witness
20 and they object.

21 Wherefore, the United States of America respectfully requests that this Court grant
22 the government leave to call SAC Steel as a witness on June 30, 2017, at 1:00 p.m.

23 Respectfully submitted this 28th day of June, 2017.

24
25 ELIZABETH A. STRANGE
Acting United States Attorney
District of Arizona

26
27 *s/ Mary Sue Feldmeier*

28 MARY SUE FELDMEIER
Assistant U.S. Attorney

1 Copy of the foregoing served electronically or by
2 other means this 28th day of June, 2017, to:

3 Sean C. Chapman, Esq.
4 Jim Calle, Esq.
5 Amy Krauss, Esq.